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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,512	03/07/2001	Gary L. Martin	24278	5298

7590 05/18/2004

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EXAMINER

CHAPMAN, JEANETTE E

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/801,512

Applicant(s)

MARTIN, GARY L.

Examiner

Chapman E Jeanette

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2,5,8-12, 15, 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over are Chambers (5605020). Chambers disclose a roofing termination device which also may be called a soffit panel consisting of:

- A first member 14 having a soffit portion adjacent reference number 24 with spaced proximal and distal peripheries; the drawings merely show a side view, see figure 6; the first member also includes a fascia portion adjacent reference number 32; the fascia portion is coextensive with the soffit portion along the distal periphery and extending generally upward or in the right direction therefrom;
- A second member 12 connected to the first 14; the second member includes a flange 44 extending generally at an angle from the soffit portion of the first member to fasten the soffit panel to the building 102 and the second member may be adjustably fastened to the first so that the width of the panel is adjustably responsive to distance variations; one may vary the amount of soffit portion of member 14 which is inserted into the channel of the second member 12;
- The second member 12 includes a channel adjacent ref. No. 18;

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- The soffit panel comprises sheet metal;
- The lengthwise dimension is sufficient is sufficient to provide a continuous panel for one building wall 102; see figure 6;

Claims 3, 6, 13, 16 (are/is) rejected under 35 U.S.C. 103(a) as being unpatentable over the above prior art as applied to claim 1 above, and further in view of Chalmers et al (4195455). Chambers lacks the ventilation holes as shown by Chambers. It would have been obvious to includes such holes for obvious reasons such preventing condensation while allowing air flow.

Chalmers also discloses the soffit panel made of aluminum. One of ordinary skill in the would have appreciated the selection of materials and would have selected any material which was commensurate with theintended use, purpose and function of the invention at hand.

Claim 4, 7, 14 (are/is) rejected under 35 U.S.C. 103(a) as being unpatentable over the above prior art as applied to claim 1 above, and further in view of Meckstroth (5459965). Chambers lacks the drip lip to prevent water from running along the panel toward the side of the building. Meckstroth shows this structure in element 64; It would have been obvious to one of ordinary skill in the art to modify the base reference to include a drip lip in order to protect the building elements as shown by Meckstroth.

Chambers also lacks the fascia portion dimensioned to serve as the roof fascia as also shown by Meckstroth. It would have been obvious to include the above structure on the panel to chambers in order to provide some overhang for building without this structure as shown by Meckstroth thus increasing the functionality of chambers.

***Response to Arguments***

Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

Contrary to applicant's comment, the examiner was not suggesting replacing the term "comprising" with the term "consisting of" but the examiner was merely responding to applicant's comments and arguments.

This is a RCE of applicant's earlier Application. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E Jeanette whose telephone number is 703-308-1310. The examiner can normally be reached on Mon.-Fri, 8:30-6:00, every other fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Friedman Carl can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jec

  
Jeanette Chapman  
Primary Examiner